



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

June 24, 2005

**REGISTERED MAIL**  
**RR 359 893 615 US**

Philip L. Hoffman  
US Army Corps of Engineers  
Planning Branch  
PO Box 3755  
Seattle WA 98124-2255

Dear Mr. Hoffman:

**RE: Order # 2498**  
**U.S. Army Corps of Engineers Reference # PL-05-04**  
Water Quality Certification and Coastal Zone Management Consistency Determination to authorize construction of gravel berms, King County, Washington.

The request for certification for proposed work in the Green River has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

Pursuant to 16 U.S.C. 1456 et. seq. (Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended), Ecology concurs with the applicant's determination that this work will be consistent with the approved Washington State Coastal Zone Management Program. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the Coastal Zone Management Program, including Section 401 of the Federal Water Pollution Control Act.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Alice Kelly at (425) 649-7145. Written comments can be sent to her at the Department of Ecology, 3190 – 160<sup>th</sup> Ave. SE, Bellevue, WA 98008. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in cursive script, reading "Jeannie Summerhays".

Jeannie Summerhays  
Section Manager  
Shorelands and Environmental Assistance Program

JS:ak:rc

Enclosure

cc: Larry Fisher, WDFW



<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 2498</b>
<b>WATER QUALITY</b>	)	<b>U.S. Army Corps Reference No. PL-05-04</b>
<b>CERTIFICATION TO</b>	)	Construction of two erodable berms consisting of
<b>U.S. Army Corps of Engineers</b>	)	up to 12,000 cubic yards of gravel in the Green
in accordance with 33 U.S.C. 1341	)	River downstream of Tacoma Diversion Dam
FWPCA § 401, RCW 90.48.120, RCW	)	annually for six years; located in Sec. 13, T. 21
90.48.260 and Chapter 173-201A WAC	)	N., R. 7 E., King County, WA.
	)	

TO: Philip L. Hoffman  
U.S. Army Corps of Engineers  
Planning Branch  
PO Box 3755  
Seattle, WA 98124-2255

On April 25, 2005, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA §401). The proposed project entails depositing gravel in the Green River in the form of erodable berms. The purpose of the project is to restore and increase Chinook salmon spawning and rearing habitat that has been impacted by the Howard Hansen dam.

A maximum of 12,000 cubic yards of gravel will be placed in two berm locations below the ordinary high water mark of the Green River to provide gravel nourishment to the river. The gravel will meet the specification required in the Biological Opinion WSB-00-198 issued by the National Marine Fisheries Service, as amended. The berms are designed to erode and provide gravel downstream suitable for Chinook spawning. The access roads that will allow equipment to reach the river have already been constructed.

The berms will be constructed annually from years 2005 to 2010.

#### **AUTHORITIES:**

For purposes of this Order, the term "Applicant" shall mean the U.S. Army Corps of Engineers and its agents, assigns, and contractors.

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306 and 307);

2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

**CONDITIONS OF ORDER # 2498 AND WATER QUALITY CERTIFICATION:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the following conditions:

**A. No Impairment of Water Quality:**

- A1. The Green River is classified as Class AA waters of the state. Certification of this proposal does not authorize the U.S. Army Corps of Engineers to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. **This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3).** Furthermore, nothing in this certification shall absolve the U.S. Army Corps of Engineers from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

The Green River has been identified on the current 303(d) list as exceeding state water quality standards for temperature. This proposed project shall not result in further exceedances of this standard.

**A2. Water Quality Sampling and Monitoring:**

Water quality sampling shall be conducted as described in the Construction Monitoring Plan dated 11 July 2003.

- If no exceedances are detected, turbidity sampling results shall be sent on a weekly basis to Ecology's Alice Kelly at fax (425) 649-7098, or e-mail [akel461@ecy.wa.gov](mailto:akel461@ecy.wa.gov).
- If exceedances are detected, turbidity sampling results shall be sent on a daily basis to Ecology's Alice Kelly.

**B. Project Monitoring:**

- B1. Impacts and effects upon aquatic resources shall be documented in a Post-Construction Monitoring Report, which shall be submitted to Ecology (suggested outline is found in Ecology's letter of June 27, 2003) annually.

**C. Stormwater Management:**

- C1. Construction practices shall comply with the applicable requirements of Ecology's Stormwater Management Manual for Western Washington, February 2005.

**D. Construction:**

- D1. Construction Stormwater and Erosion Control: Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (*e.g.*, detention areas, filter fences, etc.), shall be in place before starting clearing, filling, and grading work at the site.
- D2. All equipment working in or near the river shall be steam cleaned prior to work initiation and shall operate using vegetable-based hydraulic fluid.
- D3. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters.
- D4. The applicant shall provide notice to Ecology's Alice Kelly at least 3 days prior to the start of construction. Notification can take place by e-mail to [akel461@ecy.wa.gov](mailto:akel461@ecy.wa.gov), telephone to (425) 649-7145, fax to (425) 649-7098, or in writing.
- D5. Clean Fill Criteria: The U.S. Army Corps of Engineers shall ensure that fill (gravel) placed for the proposed project does not contain toxic materials in toxic amounts.

**E. Emergency/Contingency Measures:**

- E1. In the event the U.S. Army Corps of Engineers is unable to comply with any of the permit terms and conditions due to any cause, the applicant shall:
- Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.

- Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (425) 649-7000, and within 24 hours to Ecology's Alice Kelly at (425) 649-7145.
- Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve the applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- E2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. No refueling of equipment shall occur over, or within 50 feet of the river.

**F. General Conditions:**

- F1. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- F2. The applicant will be out of compliance with this certification if the project is constructed and/or operated in a manner not consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology. Additional mitigation measures may be required through other local, state, or federal requirements.
- F3. This Order is valid for a period of not more than seven years after the signature dated on the last page of this Order. The Applicant shall reapply with an updated application for certification if five years elapse between the date of the issuance of this Order and the beginning of construction and/or discharge.
- F4. The applicant will be out of compliance with this certification and must reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals. Any future action at this project location, emergency or otherwise, that is not defined in the Public Notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- F5. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and foremen, and state and local government inspectors.

- F6. To avoid violations or non-compliance with this Order, the applicant shall ensure that project managers, construction superintendents, and other responsible parties have read and understand relevant aspects of this Order and any subsequent revision or Ecology-approved plans.
- F7. The applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
- F8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.
- F9. Liability: Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

**Appeal Process:**

Any person aggrieved by this Order may obtain review thereof by appeal, within thirty (30) days of receipt of this Order, to the Washington Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, P.O. Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated 6/24/05 at Bellevue, Washington.



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Jeannie Summerhays, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington